
By: **Delegate Trueschler**

Introduced and read first time: February 13, 2004

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety - Gun Control Act of 2004**

3 FOR the purpose of increasing the mandatory minimum penalties for the crime of
4 using certain firearms in the commissions of certain crimes; changing a certain
5 misdemeanor to a felony; establishing the crime of using certain firearms in the
6 commission of certain drug crimes; providing that a court may not enter a
7 judgment for less than the mandatory minimum sentence for certain crimes;
8 requiring a State's attorney to prepare a certain report of a certain plea bargain
9 agreement; requiring a State's attorney to submit certain reports to the General
10 Assembly annually on or before a certain date; reducing the amount by which a
11 certain review panel may reduce a mandatory minimum sentence; requiring the
12 Department of State Police to establish a certain toll-free telephone hotline;
13 requiring a certain hotline to operate during certain hours; requiring the
14 Department to advertise the hotline on certain media; requiring the hotline to
15 provide certain information; requiring the Department to develop certain
16 methodology to track calls received by the hotline; requiring the Department to
17 provide the General Assembly with a certain annual report; requiring the
18 Governor to include funding for the hotline in the annual budget; requiring the
19 Department to establish an Illegal Gun Amnesty Program; establishing the
20 purpose of the Program; establishing an amnesty period for a person to deliver
21 and abandon a firearm, destructive device, or ammunition to a law enforcement
22 officer or agency; providing for certain locations to deliver firearms, destructive
23 devices, or ammunition to a law enforcement officer or agency; providing that no
24 person who delivers and abandons a firearm, destructive device, or ammunition
25 to a law enforcement officer or agency under this Act shall be required to furnish
26 identification, photographs, or fingerprints; establishing that no money shall be
27 paid for a firearm, destructive device, or ammunition delivered and abandoned
28 to a law enforcement officer or agency under this Act; requiring a law
29 enforcement officer or agency that receives a firearm, destructive device, or
30 ammunition to make a certain inquiry as to whether the firearm, destructive
31 device, or ammunition is needed as evidence; requiring that a firearm,
32 destructive device, or ammunition delivered and abandoned to a law
33 enforcement officer or agency shall be destroyed; requiring the Governor to
34 include funding for the program in the annual budget; requiring the
35 Department to procure certain marketing, public relations, and advertising

1 services and products; requiring the Governor to include funding in the annual
2 budget for marketing, public relations, and advertising services and products;
3 and generally relating to the control of guns.

4 BY repealing and reenacting, with amendments,
5 Article - Criminal Law
6 Section 4-204 and 4-205
7 Annotated Code of Maryland
8 (2002 Volume and 2003 Supplement)

9 BY adding to
10 Article - Criminal Law
11 Section 4-204.1
12 Annotated Code of Maryland
13 (2002 Volume and 2003 Supplement)

14 BY adding to
15 Article - Criminal Procedure
16 Section 5-214
17 Annotated Code of Maryland
18 (2001 Volume and 2003 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article - Criminal Procedure
21 Section 8-105 and 8-106
22 Annotated Code of Maryland
23 (2001 Volume and 2003 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Criminal Procedure
26 Section 8-107
27 Annotated Code of Maryland
28 (2001 Volume and 2003 Supplement)

29 BY adding to
30 Article - Public Safety
31 Section 5-601 through 5-603, inclusive, to be under the new subtitle "Subtitle 6.
32 Hotline, Amnesty, and Advertising"
33 Annotated Code of Maryland
34 (2003 Volume)

35 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
36 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Criminal Law

2 4-204.

3 (a) A person may not use an antique firearm capable of being concealed on the
4 person or any handgun in the commission of a crime of violence, as defined in § 5-101
5 of the Public Safety Article, or any felony, whether the antique firearm or handgun is
6 operable or inoperable at the time of the crime.

7 (b) (1) (i) A person who violates this section is guilty of a [misdemeanor]
8 FELONY and, in addition to any other penalty imposed for the crime of violence or
9 felony, shall be sentenced to imprisonment for not less than [5] 10 years and not
10 exceeding 20 years.

11 (ii) The court may not impose less than the minimum [sentence of
12 5 years] SENTENCES REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH and, except as
13 otherwise provided in § 4-305 of the Correctional Services Article, the person is not
14 eligible for parole[in less than 5 years].

15 (2) IF THE FIREARM POSSESSED BY THE PERSON CONVICTED UNDER
16 THIS SECTION IS AN ASSAULT WEAPON AS DEFINED IN § 5-101(P)(2) OF THE PUBLIC
17 SAFETY ARTICLE, THE MANDATORY MINIMUM SENTENCE REQUIRED UNDER THIS
18 SUBSECTION SHALL BE INCREASED BY 5 YEARS.

19 (3) For each subsequent violation, the sentence shall be consecutive to
20 and not concurrent with any other sentence imposed for the crime of violence or
21 felony.

22 4-204.1.

23 (A) A PERSON MAY NOT USE AN ANTIQUE FIREARM CAPABLE OF BEING
24 CONCEALED ON THE PERSON OR ANY HANDGUN IN THE COMMISSION OF A DRUG
25 CRIME UNDER § 5-602, AND §§ 5-612 THROUGH 5-614 OF THIS ARTICLE, WHETHER THE
26 ANTIQUE FIREARM OR HANDGUN IS OPERABLE OR INOPERABLE AT THE TIME OF
27 THE CRIME.

28 (B) (1) (I) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
29 FELONY AND, IN ADDITION TO ANY OTHER PENALTY IMPOSED FOR A DRUG CRIME
30 UNDER § 5-602, AND §§ 5-612 THROUGH 5-614 OF THIS ARTICLE, SHALL BE
31 SENTENCED TO IMPRISONMENT FOR NOT LESS THAN 10 YEARS AND NOT EXCEEDING
32 20 YEARS.

33 (II) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
34 FELONY AND, IN ADDITION TO ANY OTHER PENALTY IMPOSED FOR A DRUG CRIME
35 UNDER §§ 5-603 THROUGH 5-609 OF THIS ARTICLE, SHALL BE SENTENCED TO
36 IMPRISONMENT FOR NOT LESS THAN 5 YEARS AND NOT EXCEEDING 10 YEARS.

37 (III) THE COURT MAY NOT IMPOSE LESS THAN THE MINIMUM
38 SENTENCES REQUIRED UNDER THIS SUBSECTION AND, EXCEPT AS OTHERWISE

1 PROVIDED IN § 4-305 OF THE CORRECTIONAL SERVICES ARTICLE, THE PERSON IS
2 NOT ELIGIBLE FOR PAROLE.

3 (2) IF THE FIREARM POSSESSED BY THE PERSON CONVICTED UNDER
4 THIS SECTION IS AN ASSAULT WEAPON AS DEFINED IN § 5-101(P)(2) OF THE PUBLIC
5 SAFETY ARTICLE, A MANDATORY MINIMUM SENTENCE REQUIRED UNDER THIS
6 SUBSECTION SHALL BE INCREASED BY 5 YEARS.

7 (3) FOR EACH SUBSEQUENT VIOLATION, THE SENTENCE SHALL BE
8 CONSECUTIVE TO AND NOT CONCURRENT WITH ANY OTHER SENTENCE IMPOSED
9 FOR THE DRUG CRIME.

10 4-205.

11 (a) Notwithstanding § 14-102 of this article or any other provision of law,
12 except with respect to a sentence prescribed in § 4-203(c)(2) of this subtitle, a court
13 may not:

14 (1) enter a judgment for less than the mandatory minimum sentence
15 prescribed in § 4-203 [or], § 4-204 OR § 4-204.1 of this subtitle in a case in which a
16 mandatory minimum sentence is specified under § 4-203 [or], § 4-204 OR § 4-204.1 of
17 this subtitle; or

18 (2) suspend a mandatory minimum sentence prescribed in § 4-203 [or],
19 § 4-204, OR § 4-204.1 of this subtitle.

20 (b) Notwithstanding § 14-102 of this article or any other provision of law:

21 (1) except with respect to a sentence prescribed in § 4-203(c)(2) of this
22 subtitle for wearing, carrying, or transporting a handgun other than on public school
23 property, a court may not order probation before judgment in a case arising under this
24 subtitle; and

25 (2) except with respect to a sentence prescribed in § 4-203(c)(2) of this
26 subtitle, a court may not order probation with respect to a case arising under § 4-203
27 [or], § 4-204, OR § 4-204.1 of this subtitle that would have the effect of reducing the
28 actual period of imprisonment prescribed in § 4-203 [or], § 4-204, OR § 4-204.1 of this
29 subtitle as a mandatory minimum sentence.

30 **Article - Criminal Procedure**

31 5-214.

32 (A) IN THIS SECTION, "PLEA BARGAIN AGREEMENT" MEANS AN AGREEMENT
33 BETWEEN THE DEFENDANT OR THE DEFENDANT'S ATTORNEY AND THE STATE'S
34 ATTORNEY THAT THE DEFENDANT WILL PLEAD GUILTY TO A CHARGE OR CHARGES
35 IN EXCHANGE FOR THE STATE'S ATTORNEY'S:

36 (1) RECOMMENDATIONS TO THE COURT OF A SENTENCE WHICH IS LESS
37 THAN THE MAXIMUM PENALTY OR PENALTIES FOR THE CHARGE OR CHARGES;

1 (2) PROMISE TO MAKE NO RECOMMENDATIONS TO THE COURT
2 REGARDING THE SENTENCE;

3 (3) PROMISE TO ENTER A NOLLE PROSEQUI TO A CHARGE OR CHARGES
4 CARRYING GREATER STATUTORY PENALTIES; OR

5 (4) PROMISE TO PLACE A CHARGE OR CHARGES CARRYING GREATER
6 STATUTORY PENALTIES ON THE STET DOCKET.

7 (B) A STATE'S ATTORNEY SHALL PREPARE A WRITTEN MEMORANDUM OF
8 EACH PLEA BARGAIN AGREEMENT REACHED WITH A DEFENDANT OR THE
9 DEFENDANT'S ATTORNEY FOR ANY CHARGE BROUGHT UNDER § 4-204 OR § 4-204.1 OF
10 THE CRIMINAL LAW ARTICLE THAT SHALL CONTAIN:

11 (1) THE CASE NAME AND NUMBER;

12 (2) AN EXPLANATION OF THE SPECIFIC FACTORS THAT RESULTED IN
13 THE STATE'S ATTORNEY'S DECISION NOT TO PROSECUTE THE CASE;

14 (3) THE DEFENDANT'S RECORD OF ARRESTS AND CONVICTIONS; AND

15 (4) THE SIGNATURE OF THE STATE'S ATTORNEY.

16 (C) ON OR BEFORE FEBRUARY 15 OF EACH YEAR, A STATE'S ATTORNEY SHALL
17 SUBMIT TO THE GENERAL ASSEMBLY ALL OF THE MEMORANDA OF PLEA BARGAIN
18 AGREEMENTS REACHED IN THE PREVIOUS CALENDAR YEAR PREPARED PURSUANT
19 TO SUBSECTION (B) OF THIS SECTION.

20 8-105.

21 (a) A review panel consists of three or more circuit court judges of the judicial
22 circuit in which the sentencing court is located.

23 (b) Notwithstanding any Maryland Rule, the sentencing judge may not be a
24 member of the review panel, but on request of the sentencing judge, the sentencing
25 judge may sit with the review panel only in an advisory capacity.

26 (c) (1) A review panel shall consider each application for review of a
27 sentence.

28 (2) A review panel may require the Division of Parole and Probation to
29 make investigations, reports, and recommendations.

30 (3) A review panel:

31 (i) with or without a hearing, may decide that the sentence under
32 review should remain unchanged; or

33 (ii) after a hearing, may order a different sentence to be imposed or
34 served, including:

- 1 1. an increased sentence;
- 2 2. subject to § 8-107(c) of this subtitle, a decreased sentence;
- 3 3. a suspended sentence to be served wholly or partly; or
- 4 4. a sentence to be suspended with or without probation.

5 (4) In deciding to order a different sentence, the review panel may
6 impose conditions that the review panel considers just and that could have been
7 imposed lawfully by the sentencing court when the sentence was imposed.

8 (d) If the review panel orders a different sentence, the review panel shall
9 resentence and notify the defendant in accordance with the order of the panel.

10 8-106.

11 (a) A review panel may increase, modify, or reduce a sentence only after notice
12 to each party and notice to any victim or victim's representative as provided under §
13 11-104 or § 11-503 of this article.

14 (b) Before changing a sentence, a review panel shall allow:

15 (1) each party to be heard at the hearing; and

16 (2) the victim or victim's representative to attend the hearing, as
17 provided by § 11-102 of this article, and to address the review panel, as provided by §
18 11-403 of this article.

19 8-107.

20 (a) Except as provided in subsection (c) of this section, a majority of the
21 members of the review panel is necessary to make a decision.

22 (b) The review panel shall make the decision within 30 days after the filing
23 date of the application for review.

24 (c) A review panel may not order a decrease in a mandatory minimum
25 sentence:

26 (1) OF MORE THAN 40% OF THE MANDATORY MINIMUM SENTENCE FOR
27 VIOLATIONS UNDER § 4-204 AND § 4-204.1 OF THE CRIMINAL LAW ARTICLE, AND §
28 5-133 OF THE PUBLIC SAFETY ARTICLE; AND

29 (2) unless the decision of the review panel is unanimous.

30 (d) A review panel shall consider time served on the sentence under review to
31 be time served on any sentence that is substituted.

1

Article - Public Safety

2 5-133.

3 (c) (1) A person may not possess a regulated firearm if the person was
4 previously convicted of:

5 (i) a crime of violence; or

6 (ii) a violation of § 5-602, § 5-603, § 5-604, § 5-605, § 5-606, §
7 5-607, § 5-608, § 5-609, § 5-612, § 5-613, or § 5-614 of the Criminal Law Article.

8 (2) (I) A person who violates this subsection is guilty of a felony [and
9 on conviction is subject to imprisonment for not less than 5 years, no part of which
10 may be suspended].

11 (II) A PERSON WHO VIOLATES THIS SUBSECTION WHO WAS
12 PREVIOUSLY CONVICTED OF A CRIME OF VIOLENCE, OR OF A VIOLATION OF § 5-602, §
13 5-612, § 5-613, OR § 5-614 OF THE CRIMINAL LAW ARTICLE, IS SUBJECT TO
14 IMPRISONMENT FOR NOT LESS THAN 10 YEARS, AND NOT EXCEEDING 20 YEARS, NO
15 PART OF WHICH MAY BE SUSPENDED; AND

16 (III) A PERSON WHO VIOLATES THIS SUBSECTION WHO WAS
17 PREVIOUSLY CONVICTED OF A CRIME OF VIOLENCE, OR OF A VIOLATION OF § 5-603, §
18 5-604, § 5-605, § 5-606, § 5-607, § 5-608, OR § 5-609 OF THE CRIMINAL LAW ARTICLE, IS
19 SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 5 YEARS, AND NOT EXCEEDING 10
20 YEARS, NO PART OF WHICH MAY BE SUSPENDED.

21 (3) IF THE FIREARM POSSESSED BY THE PERSON CONVICTED UNDER
22 THIS SUBSECTION IS AN ASSAULT WEAPON AS DEFINED IN § 5-101(P)(2) OF THIS
23 SUBTITLE, THE MANDATORY MINIMUM SENTENCES REQUIRED UNDER PARAGRAPHS
24 (2)(II) AND (III) OF THIS SUBSECTION SHALL BE INCREASED BY 5 YEARS.

25 [(3)] (4) A person sentenced under paragraph (1) of this subsection
26 may not be eligible for parole.

27 [(4)] (5) Each violation of this subsection is a separate crime.

28 SUBTITLE 6. HOTLINE, AMNESTY, AND ADVERTISING.

29 5-601.

30 (A) THE DEPARTMENT OF STATE POLICE SHALL ESTABLISH A TOLL-FREE
31 MARYLAND ILLEGAL GUN HOTLINE THAT OPERATES DURING:

32 (1) REGULAR BUSINESS HOURS; AND

33 (2) NONBUSINESS HOURS TO ALLOW CALLERS TO LEAVE A MESSAGE.

34 (B) THE DEPARTMENT SHALL:

1 (1) DEVELOP A METHODOLOGY TO TRACK THE NUMBER AND TYPES OF
2 CALLS RECEIVED BY THE MARYLAND ILLEGAL GUN HOTLINE; AND

3 (2) PROVIDE AN ANNUAL REPORT TO THE GENERAL ASSEMBLY THAT
4 SUMMARIZES THE NUMBER AND TYPE OF CALLS RECEIVED BY THE MARYLAND
5 ILLEGAL GUN HOTLINE.

6 (C) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL
7 SUFFICIENT FUNDS TO CARRY OUT THIS SECTION.

8 5-602.

9 (A) (1) THE DEPARTMENT SHALL ESTABLISH AN ILLEGAL GUN AMNESTY
10 PROGRAM IN THE STATE.

11 (2) THE PURPOSE OF THE AMNESTY PROGRAM IS TO:

12 (I) REDUCE THE NUMBER OF UNREGISTERED AND ILLEGAL
13 WEAPONS FROM THE STREETS OF THE STATE; AND

14 (II) ALLOW INDIVIDUALS IN POSSESSION OF ILLEGAL GUNS TO
15 SAFELY DISPOSE OF THE WEAPONS.

16 (B) THERE SHALL BE AN AMNESTY PERIOD EACH YEAR DURING THE FIRST
17 WEEK IN JUNE.

18 (C) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE
19 AMNESTY PROGRAM UNDER THIS SECTION.

20 (D) (1) IF A PERSON WITHIN THE STATE VOLUNTARILY AND PEACEABLY
21 DELIVERS AND ABANDONS TO A LAW ENFORCEMENT OFFICER OR AGENCY A
22 FIREARM, DESTRUCTIVE DEVICE, OR AMMUNITION DURING AN AMNESTY PERIOD,
23 THE DELIVERY SHALL PRECLUDE THE ARREST AND PROSECUTION OF THE PERSON
24 ON A CHARGE OF A VIOLATION OF THE CRIMINAL LAW ARTICLE OR PUBLIC SAFETY
25 ARTICLE WITH RESPECT TO THE FIREARM, DESTRUCTIVE DEVICE, OR AMMUNITION.

26 (2) DELIVERY UNDER THIS SUBSECTION MAY BE MADE AT A POLICE
27 DISTRICT, STATION, OR HEADQUARTERS OR BY SUMMONING A LAW ENFORCEMENT
28 OFFICER TO THE PERSON'S RESIDENCE OR PLACE OF BUSINESS.

29 (3) A FIREARM OR DESTRUCTIVE DEVICE TO BE DELIVERED AND
30 ABANDONED TO A LAW ENFORCEMENT OFFICER OR AGENCY UNDER THIS
31 SUBSECTION SHALL BE UNLOADED AND SECURELY WRAPPED IN A PACKAGE, AND, IN
32 THE CASE OF DELIVERY TO A LAW ENFORCEMENT FACILITY, THE PACKAGE SHALL
33 BE CARRIED IN OPEN VIEW.

34 (4) A PERSON WHO DELIVERS AND ABANDONS TO A LAW ENFORCEMENT
35 OFFICER OR AGENCY A FIREARM, DESTRUCTIVE DEVICE, OR AMMUNITION UNDER
36 THIS SUBSECTION IS NOT REQUIRED TO FURNISH IDENTIFICATION, PHOTOGRAPHS,
37 OR FINGERPRINTS.

1 (5) NO MONEY SHALL BE PAID FOR ANY FIREARM, DESTRUCTIVE
2 DEVICE, OR AMMUNITION DELIVERED AND ABANDONED UNDER THIS SUBSECTION.

3 (E) (1) A LAW ENFORCEMENT OFFICER OR AGENCY THAT RECEIVES A
4 FIREARM, DESTRUCTIVE DEVICE, OR AMMUNITION UNDER THIS SECTION SHALL
5 INQUIRE OF THE UNITED STATES ATTORNEY FOR THE STATE OF MARYLAND AND
6 THE DEPARTMENT OF STATE POLICE WHETHER THE FIREARM, DESTRUCTIVE
7 DEVICE, OR AMMUNITION IS NEEDED AS EVIDENCE.

8 (2) A FIREARM, DESTRUCTIVE DEVICE, OR AMMUNITION THAT IS NOT
9 NEEDED AS EVIDENCE SHALL BE DESTROYED.

10 (F) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL
11 SUFFICIENT FUNDS TO CARRY OUT THIS SECTION.

12 5-603.

13 (A) THE DEPARTMENT SHALL PROCURE MARKETING, PUBLIC RELATIONS AND
14 ADVERTISING SERVICES AND PRODUCTS TO DEVELOP AND IMPLEMENT A MEDIA
15 INITIATIVE TO SATURATE THE MARKET WITH MESSAGES TO PROMOTE:

16 (1) THE MARYLAND ILLEGAL GUN HOTLINE;

17 (2) THE MARYLAND ILLEGAL GUN AMNESTY PROGRAM;

18 (3) THE INCREASED PENALTIES FOR ILLEGAL POSSESSION OF GUNS;
19 AND

20 (4) OTHER MESSAGES DESIGNED TO REDUCE THE NUMBER OF ILLEGAL
21 GUNS IN MARYLAND.

22 (B) THE ADVERTISING CAMPAIGN SHALL BE PROFESSIONALLY PRODUCED
23 AND PROVIDE A COMPREHENSIVE MIX OF MEDIA PRODUCTS INCLUDING:

24 (1) AUDIOVISUAL PRESENTATIONS;

25 (2) BILLBOARDS;

26 (3) COMMUNITY-BASED MEETINGS;

27 (4) NEWS RELEASES;

28 (5) POSTERS;

29 (6) PUBLIC SERVICE ANNOUNCEMENTS;

30 (7) PRINT ADVERTISEMENTS;

31 (8) PUBLICATIONS;

32 (9) RADIO COMMERCIALS;

1 (10) SPECIAL EVENTS;

2 (11) TELEVISION COMMERCIALS; AND

3 (12) TRANSIT ADVERTISEMENTS.

4 (C) ADVERTISEMENT OF THE MARYLAND ILLEGAL GUN HOTLINE SHALL
5 CLEARLY STATE:

6 (1) THE TOLL-FREE TELEPHONE NUMBER OF THE HOTLINE;

7 (2) THAT ANY PERSON AWARE OF ANY VIOLATIONS OF THE GUN LAWS
8 OF THE STATE SHOULD CALL THE TELEPHONE NUMBER; AND

9 (3) THAT ALL CALLERS WILL REMAIN ANONYMOUS.

10 (D) (1) ADVERTISEMENT OF THE AMNESTY PROGRAM SHALL BEGIN 30 DAYS
11 BEFORE THE START OF EACH AMNESTY PERIOD AND SHALL CONTINUE FOR THE
12 DURATION OF THE AMNESTY PERIOD.

13 (2) THE ADVERTISEMENT SHALL CLEARLY STATE:

14 (I) THE DATES OF THE AMNESTY PERIOD;

15 (II) A TELEPHONE NUMBER TO RECEIVE ADDITIONAL
16 INFORMATION; AND

17 (III) THAT ALL CALLERS WILL REMAIN ANONYMOUS.

18 (E) ADVERTISEMENT OF INCREASED ENFORCEMENT AND PENALTIES SHALL
19 CONTINUE THROUGHOUT THE YEAR AS SEPARATE ADVERTISEMENTS AND IN
20 CONJUNCTION WITH ADVERTISEMENTS FOR THE MARYLAND ILLEGAL GUN HOTLINE
21 AND THE AMNESTY PROGRAM.

22 (F) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL
23 SUFFICIENT FUNDS TO CARRY OUT THIS SECTION.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2004.